



THE CITY OF NEW YORK
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December 3, 2015

BY ECF

Honorable Katherine P. Failla
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Norman Jenkins v. P.O. Victor Charles, et. al.
13 Civ. 3405 (KPF)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, assigned to represent defendants Victor Charles, Robert Agate and Ramiro Ruiz in the above-referenced matter. Defendants write in response to plaintiff's letter dated December 3, 2015 (Docket No. 94.)

The reason to admit Ms. Hamilton's 2009 conviction for criminal possession of a forged instrument in the third degree is to attack the witness's character for truthfulness. Fed. R. Ev. 609(a). It is therefore relevant that she pled guilty to an offense that has, as an element, that she acted with the intent to defraud, deceive, or injure another. Additionally, defendants have a good-faith basis to ask Ms. Hamilton whether intent to defraud, deceive, or injure is an element of criminal possession of a forged instrument in the third degree. N.Y. Pen. L. § 170.20. The fact that Ms. Hamilton *may* not know the answer is not a reason to preclude a relevant question for which there is a good faith basis. Furthermore, limiting the questioning to the name of the crime would be confusing to the jury, and the additional question serves to explain the probative value of the conviction.

Defendants thank the Court for its attention to this matter.

Respectfully submitted,
/s/
Tavish C. DeAtley, Esq.
Attorney for defendants